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FEDERAL COMMUNICATIONS COMMISSION
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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
	)	
Transport Rate Structure and Pricing	)	CC Docket No. 91-213
	)	
	)	
Usage of the Public Switched Network by Information Service and Internet Access Providers	)	CC Docket No. 96-263
	)	
	)	

To: The Commission

COMMENTS OF THE
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

The Personal Communications Industry Association ("PCIA")[1/] respectfully submits its comments on the *Notice of Proposed Rulemaking ("NPRM")*[2/]

[1/] PCIA is the international trade association created to represent the interests of both the commercial and the private mobile radio service communications industries. PCIA's Federation of Councils includes: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Specialized Mobile Radio Alliance, the Site Owners and Managers Association, the Association of Wireless System Integrators, the Association of Communications Technicians, and the Private System Users Alliance. In addition, as the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of licensees.

[2/] FCC 96-488, released December 24, 1996.

adopted in the above-captioned proceeding. PCIA supports many aspects of the Commission's effort to reform the existing access charge structure. The three issues addressed in these comments merit meaningful consideration by the Commission. Failure to address them would undermine the Commission's efforts to achieve reform of the universal service fund, and will have a direct impact on PCIA's members.[3/]

I. The Commission Must Implement Access Charge and Universal Service Fund Reform Concurrently to Avoid Double Recovery of Costs

The FCC's proposed changes to the access charge structure are integrally related to the Commission's proposals to revise the universal service fund.[4/] Regardless of the method selected to affect access charge reform (i.e., market-based or prescriptive approach) the reforms adopted will be implemented over a significant period of time, with an interim transition period. PCIA agrees with the Commission that special attention should be given to ensure that proposed regulatory changes to access charges and the universal service fund are accomplished concurrently. If that cannot be accomplished, safeguards must be adopted, to prevent local exchange carriers ("LECs") from recovering the costs associated with providing

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[3/] PCIA will be closely monitoring other comments in the proceeding for additional issues of concern to its members.

[4/] *NPRM* para. 241.

universal service from both the implicit subsidies contained in access charges as well as from the universal service fund.

For example, in this proceeding the Commission proposes to eliminate the Transport Interconnection Charge ("TIC") and allocate costs which are currently misallocated to the TIC to reflect their proper source.[5] The Commission correctly notes that some universal service fund support amounts may reduce the amount that would otherwise be recovered from the TIC.[6] Thus, if the Commission implements the proposed universal service fund reforms prior to reducing the TIC, LECs would be in a position to recover certain costs twice: once from the universal service fund, and once from the TIC-based subsidy for universal service.

To avoid the "double dip" scenario, PCIA agrees that the Commission should reduce certain charges which subsidize universal service if these subsidies are recovered via other mechanisms.[7] PCIA also supports the Commission's suggestion

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[5] *NPRM* paras. 98-122.

[6] *NPRM* para. 98.

[7] For example, see *NPRM* para. 243. PCIA is one record as supporting this approach. See Comments of the Personal Communications Industry Association filed December 19, 1996, CC Docket No. 96-45; Supplemental Comments of the Broadband PCS Alliance filed December 19, 1996, CC Docket No. 96-45; Supplemental Comments of the Paging and Narrowband PCS Alliance filed December 19, 1996, CC Docket No. 96-45.

that price-cap regulated LECs' exogenous costs, and rate-of-return LECs' interstate costs, must be adjusted downward to reflect recovery from the universal service fund.[8]

II. The FCC Should Monitor the Effect of Access Charge Reform Upon the Size of Carriers' Contributions to the Universal Service Fund

The Telecommunications Act of 1996 requires that universal service subsidies be explicit.[9] In its *NPRM*, the Commission properly notes that several aspects of the current access charge regime (including LTS and geographically averaged rates) are inconsistent with this statutory requirement.[10]

PCIA understands the Commission's desire to make access charges consistent with the Telecommunications Act of 1996. PCIA is concerned, however, that the consequential increase in the size of the universal service fund, and carriers' contributions to that fund, will have a disproportionate adverse effect upon Commercial Mobile Radio Service ("CMRS") providers. PCIA's comments submitted in the universal service proceeding urge the Commission to carefully scrutinize the services supported by the fund in order to limit the effect that

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8/ *NPRM* paras. 245-6.

9/ 47 U.S.C. § 254(e).

10/ *NPRM* paras. 243-244.

contributions to the fund will have on CMRS services which are highly competitive.[11] Contributions of CMRS providers should reflect the disproportionate adverse effect that steep contribution obligations would have upon the CMRS industry. In light of the inextricable link between the issues in the two proceedings, the Commission should carefully consider PCIA's comments filed in CC Docket No. 96-45.

III. The Commission Should Cure the Unfair Treatment of CMRS Providers in the Three Carrier Model

A. The Commission Must Cure the Historical Discrimination of CMRS Providers in Connection with Transport and Access

The *NPRM* does not address the "three carrier model," i.e., where IXC traffic traverses a LEC network and is terminated on a network other than that of the LEC, e.g, a CMRS network. In this model, to date, CMRS providers are being treated unfairly. Consistent with past pronouncements of the FCC, CMRS providers should be treated like LECs and competitive access providers ("CAPs") regarding recovery of access charges from LECs and other IXCs.

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[11] Comments of the Personal Communications Industry Association filed December 19, 1996, CC Docket No. 96-45; Supplemental Comments of the Broadband PCS Alliance filed December 19, 1996, CC Docket No. 96-45; Supplemental Comments of the Paging and Narrowband PCS Alliance filed December 19, 1996, CC Docket No. 96-45.

The *NPRM* explains that access charges assessed by LECs relate to (a) entrance facilities between the IXC's point of presence ("POP") and the LEC's end office ("EO") serving the IXC POP, and (b) transport/switching from the LEC's EO serving the IXC POP to the LEC's EO serving the end user.[12] The *NPRM* presumes that the LEC terminates the telecommunications traffic directly to one of its end-user subscribers. <u>The *NPRM* fails to address situations in which the LEC delivers traffic from an IXC to a CMRS provider who then terminates the telecommunications</u>.

PCIA believes that Commission guidance is critical with respect to the three carrier model. Currently, where the three carrier model exists, many LECs charge CMRS carriers for the facility which transports traffic from the LEC EO to the CMRS carrier's switch. This type of arrangement is inconsistent with the existing regulatory regime governing the two carrier model in which IXCs compensate the carrier providing access for transport of telecommunications traffic to the end office serving the end user. Where the three carrier model exists, access charges which the LEC assesses should include the costs of transport between the LEC EO and the CMRS switch and LECs should be directed to cease recovering these costs from CMRS providers.

[12] *NPRM*, Figure 1 at p. 15 and paras 25-27.

CMRS carriers also do not receive access revenues under current access charge practices. There is ample evidence in the record of CC Dockets 95-185[13/] and 96-98[14/] that CMRS carriers historically have not received the compensation to which they are entitled for the termination of telecommunications traffic. This is true regardless of whether that traffic is intrastate or interstate in nature. Access charges should include compensation to CMRS providers for the access to their subscribers which they provide by completing telecommunications originated by other telecommunications carriers. This is consistent with conclusions reached by the Commission in CC Docket No. 95-185. There the Commission concluded that:

> [C]MRS providers should be able to recover access charges from IXCs, as the LECs do when interstate interexchange traffic passes from CMRS customers to IXCs (or vice versa) via LEC networks. We propose to require that CMRS providers be treated no less favorably then neighboring LECs or CAPs with respect to

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13/ *Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Notice of Proposed Rule Making*, CC Docket No. 95-185, 11 FCC Rcd. 5020 (1996).

14/ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Notice of Proposed Rule Making*, ___ FCC Rcd. ___ (1996), 61 Fed. Reg. 18311 (April 25, 1996); *First Report and Order*, ___ FCC Rcd. ___, 61 Fed. Reg. 45476 (August 29, 1996) (1996).

> recovery of access charges from IXCs and LECs for interstate interexchange traffic. We tentatively conclude that any less favorable treatment of CMRS providers would be unreasonably discriminatory, and would interfere with our statutory objective and ongoing commitment to foster the development of new wireless service such as CMRS.[15]

Consistent with the Commission's past conclusions, the Commission should take action in this proceeding to cure this historical discrimination.

B. LECs Should Have a Direct Role in Implementing the Requested Reform

Finally, PCIA requests that the Commission address an implementation issue regarding the reforms requested above. Under the majority of interconnection arrangements with LECs, CMRS carriers are unable to determine the originating source of the telecommunications, e.g., whether the traffic is being delivered to the LEC from an IXC. In other words, CMRS providers, in many instances, are unable to determine from whom they are entitled to compensation. In light of this limitation, the Commission should direct LECs to assess and collect all access charges relating to a telecommunication and pass along to the CMRS carrier those amounts which relate

[15] *Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, *Notice of Proposed Rule Making*, CC Docket No. 95-185, 11 FCC Rcd. 5020 at para. 116 (1996).

to the costs the CMRS carrier incurs in completing the telecommunication. Such a requirement would not impose an undue burden on the LEC delivering the telecommunication to the CMRS carrier. The LEC already is a party to access agreements with the IXC whose traffic is traversing the LEC's network. Thus, the LEC is not only capable of identifying the IXC delivering the traffic, but also has a vehicle through which to assess and collect the subject charges.

IV. CONCLUSION

The reforms proposed above are critical to fair and efficient reforms of both existing access and universal service mechanisms. For the foregoing reasons, PCIA respectfully requests that the Commission adopt the proposals set forth herein.

Respectfully submitted,

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